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PAROLE ELIGIBILITY DESIGNATIONS

A Report Prepared for the Criminal Justice
and Corrections Advisory Council

By Lois Menzies, Project Director

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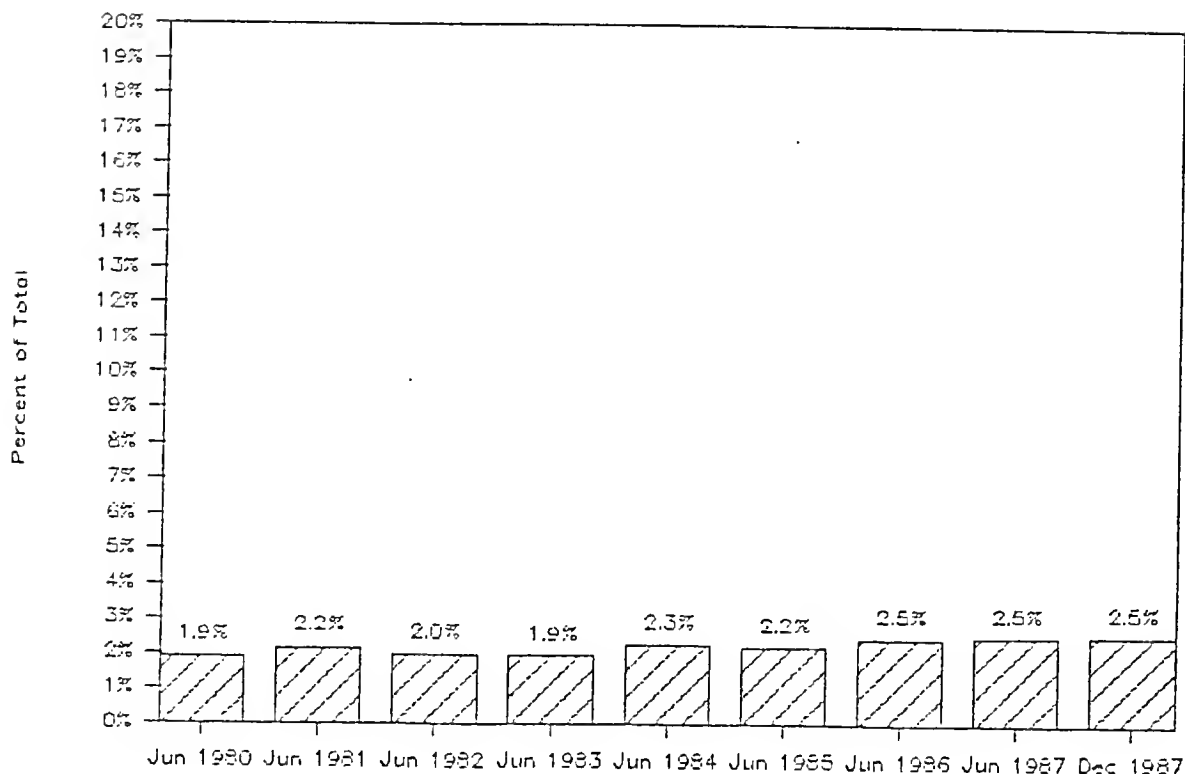
Parole ineligibility. An offender's parole eligibility status is determined at the time of sentencing. Two categories of offenders may not be paroled: those receiving death sentences and those who are designated as ineligible for parole by a sentencing judge. A judge may designate an offender as ineligible for parole if a sentence of imprisonment in the state prison for a term exceeding one year is imposed (46-18-202, MCA).

The percentage of inmates who are designated ineligible for parole is relatively small. During the second quarter of fiscal year 1988 (October 1 - December 31, 1987), 2.5 percent of the inmate population (30 inmates) was parole-ineligible. During fiscal years 1980 through 1988, the percentage of parole-ineligible inmates remained fairly constant, ranging from 1.9 percent in fiscal years 1980 and 1983 to 2.5 percent in fiscal years 1986 through 1988. (See graph on following page.)

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PERCENTAGE OF INMATE POPULATION
DESIGNATED PAROLE INELIGIBLE

(4th quarter percentages for FY 1980 - 1987;
2nd quarter percentage for FY 1988)



Dangerous/nondangerous designation. For an offender who is parole-eligible, the sentencing judge must determine whether the offender is considered nondangerous for parole purposes. Under 46-18-404, MCA, the judge must designate the offender nondangerous if:

(1) during the five years preceding the commission of the offense for which the offender is being sentenced, the offender was neither convicted of nor incarcerated for an offense committed in this state or any other jurisdiction for which a sentence to a term of imprisonment in excess of one year could have been imposed; and

(2) the judge has determined, based on any presentence report and evidence presented at the trial and sentencing hearing, that the offender does not represent a substantial danger to other persons of society.¹

If the judge determines that an offender is not eligible to be designated as nondangerous, he must make that determination a part of the sentence imposed and state the determination in the judgment. If the sentence and judgment do not contain this determination, the offender is considered to have been designated as nondangerous for parole purposes.

The length of an inmate's sentence, his nondangerous designation or lack of such designation, and the amount of good time earned while incarcerated are the major determinants of the inmate's parole eligibility date. An offender designated nondangerous is eligible for parole after serving one-quarter of his full term, less good time earned. An offender who does not receive this designation must serve one-half his full term, less good time, before being considered for parole.

During the second quarter of fiscal year 1988 (October 1 - December 31, 1987), 85.9 percent of the parole-eligible inmate population (1011 inmates) were designated nondangerous; 14.1 percent (166 inmates) were

¹ According to 46-18-404, MCA, a conviction or incarceration may not be considered in determining the nondangerous designation if the offender:

(1) was less than 18 years of age at the time of the commission of the present offense; or

(2) has been pardoned for the previous offense on the grounds of innocence or the conviction for the offense was set aside in a postconviction hearing.

designated dangerous. During fiscal years 1980 through 1988, the percentage of nondangerous offenders has slightly declined while the percentage of dangerous offenders has increased proportionately. (See graph below)

PERCENTAGE OF PAROLE-ELIGIBLE INMATES DESIGNATED
NONDANGEROUS AND DANGEROUS

(4th quarter percentages for FY 1980 - 1987;
2nd quarter percentage for FY 1988)

